

AMENDED IN SENATE APRIL 15, 2004

AMENDED IN SENATE APRIL 12, 2004

AMENDED IN SENATE MARCH 24, 2004

SENATE BILL

No. 1424

Introduced by Senator Burton

(Principal Coauthor: Assembly Member Wolk)

*(Coauthors: Assembly Members Berg, Canciamilla, Harman,
Richman, and Wiggins)*

February 19, 2004

An act to amend Sections 6561, 6561.5, 6563, 6565, 12428, 12430, 12431, 19045, 19046, 19047, 19048, 19050, 19301, 19324, 19331, 19332, 19333, 19334, 19335, 19343, 19344, 19345, 19346, 19347, 19350, 19381, 19382, and 19384 of, to add Part 12 (commencing with Section 25150) to Division 2 of, and to repeal Sections 6562, 6564, and 12429 of, the Revenue and Taxation Code, relating to governmental organization.

LEGISLATIVE COUNSEL'S DIGEST

SB 1424, as amended, Burton. California Tax Court.

Existing law provides for the establishment of the State Board of Equalization, and prescribes its various powers and duties regarding the administration of property taxes and various excise taxes and its administrative appeals responsibilities with regard to state personal income taxes and bank and corporation taxes. Existing law also provides for the establishment of the Franchise Tax Board and prescribes its various powers and duties regarding the administration of state personal income taxes and corporation taxes.

Existing law provides for the review by the State Board of Equalization of assessments and determinations of tax under the Sales and Use Tax Law and specified provision of the insurance taxation laws, upon a filing of a specified petition by the taxpayer. Under existing law, the Franchise Tax Board reviews its deficiency assessments of personal income taxes and corporation taxes upon the filing of a protest by the taxpayer. The Franchise Tax Board's action upon the protest is subject to appeal by the taxpayer to the State Board of Equalization, which hears and determines the appeal. Existing law provides that a taxpayer, upon payment of the underlying tax assessment, may file a claim for refund with the superior court.

This bill would create the California Tax Court that would replace the State Board of Equalization as the forum that would hear and determine appeals from taxpayers with respect to sales and use tax determinations, specified insurance tax determinations, personal income tax deficiency assessments, and corporation tax deficiency assessments. This bill would prescribe the qualifications for, the term of office of, and the manner in which a judge is appointed to the California Tax Court. This bill would prescribe the procedures to be followed by the California Tax Court with respect to these appeals and would provide that a taxpayer's option to file an appeal with the California Tax Court would be in lieu of filing an appeal in the California Superior Court. This bill would further provide that, within 90 days of the date a determination by the California Tax Court becomes final, a taxpayer or the applicable state agency may ~~appeal~~ *file a petition for a writ of extraordinary relief with the Court of Appeal for a review of the determination of the California Tax Court to the Court of Appeal.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) In order to increase public confidence in the fairness of the
- 4 California's tax system, the state should provide an independent
- 5 entity to resolve disputes between state taxing agencies and
- 6 taxpayers.
- 7 (2) By establishing an independent tax court, the Legislature
- 8 would provide California's taxpayers with a means of resolving



1 controversies that ensures the basic elements of due process and
2 fairness are met.

3 (b) It is the intent of the Legislature to create a tax court that will
4 ensure fair and equal treatment for similarly situated taxpayers,
5 and to provide a legal forum for resolution of tax disputes that are
6 consistent with federal tax resolution procedures.

7 SEC. 2. Section 6561 of the Revenue and Taxation Code is
8 amended to read:

9 6561. Any person against whom a determination is made
10 under Article 2 (commencing with Section 6481) or 3
11 (commencing with Section 6511) or any person directly interested
12 may petition for a redetermination with the California Tax Court
13 within 90 days after service upon the person of notice thereof. If
14 a petition for redetermination is not filed within the 90-day period,
15 the determination becomes final at the expiration of that period.

16 SEC. 3. Section 6561.5 of the Revenue and Taxation Code is
17 amended to read:

18 6561.5. Every petition for redetermination shall be in writing
19 and shall state the specific grounds upon which the petition is
20 founded.

21 SEC. 4. Section 6562 of the Revenue and Taxation Code is
22 repealed.

23 SEC. 5. Section 6563 of the Revenue and Taxation Code is
24 amended to read:

25 6563. The California Tax Court may decrease or increase the
26 amount of the determination before it becomes final, but the
27 amount may be increased only if a claim for the increase is asserted
28 by the board at or before the hearing.

29 SEC. 6. Section 6564 of the Revenue and Taxation Code is
30 repealed.

31 SEC. 7. Section 6565 of the Revenue and Taxation Code is
32 amended to read:

33 6565. (a) All determinations made by the board under Article
34 2 (commencing with Section 6481) or Article 3 (commencing with
35 Section 6511) are due and payable at the time they become final.

36 (b) All determinations made pursuant to a decision issued by
37 the California Tax Court are due and payable at the time they
38 become final.

1 (c) If any determination is not paid when due and payable, a
2 penalty of 10 per cent of the amount of the determination,
3 exclusive of interest and penalties, shall be added thereto.

4 SEC. 8. Section 12428 of the Revenue and Taxation Code is
5 amended to read:

6 12428. (a) An insurer or surplus line broker against whom a
7 deficiency assessment is made under Section 12424 or 12425 may
8 petition for redetermination of the deficiency assessment within
9 90 days after service upon the insurer or surplus line broker of the
10 notice thereof, by a written petition with the California Tax Court,
11 with a copy to the commissioner, setting forth the grounds of
12 objection to the deficiency assessment and the correction sought.

13 (b) If a petition for redetermination is not filed within the
14 90-day period prescribed by this section, the deficiency
15 assessment becomes final and due and payable at the expiration of
16 that 90-day period.

17 SEC. 9. Section 12429 of the Revenue and Taxation Code is
18 repealed.

19 SEC. 10. Section 12430 of the Revenue and Taxation Code is
20 amended to read:

21 12430. The California Tax Court, in the exercise of its
22 discretion, may decrease or increase the amount of the deficiency
23 assessment before the decision issued by the California Tax Court
24 becomes final, but the amount may be increased only if a claim for
25 the increase is asserted by the commissioner or the board at or
26 before the hearing.

27 SEC. 11. Section 12431 of the Revenue and Taxation Code is
28 amended to read:

29 12431. (a) The decision of the California Tax Court upon a
30 petition for redetermination of a deficiency assessment becomes
31 final 90 days after service on the insurer or surplus line broker, as
32 applicable, and the commissioner of the notice of the decision of
33 the California Tax Court.

34 (b) All determinations made by the California Tax Court are
35 due and payable at the time the decision becomes final.

36 SEC. 12. Section 19045 of the Revenue and Taxation Code is
37 amended to read:

38 19045. The Franchise Tax Board's action upon the protest,
39 whether in whole or in part, is final upon the expiration of 90 days
40 from the date when it mails notice of its action to the taxpayer,

1 unless within that 90-day period the taxpayer appeals in writing
2 from the action of the Franchise Tax Board to the California Tax
3 Court.

4 SEC. 13. Section 19046 of the Revenue and Taxation Code is
5 amended to read:

6 19046. Two copies of the appeal and two copies of any
7 supporting documents shall be addressed and mailed to the
8 California Tax Court. Upon receipt of the appeal, the California
9 Tax Court shall provide one copy of the appeal and one copy of any
10 supporting documents to the Franchise Tax Board at Sacramento,
11 California.

12 SEC. 14. Section 19047 of the Revenue and Taxation Code is
13 amended to read:

14 19047. The California Tax Court shall hear and determine the
15 appeal and thereafter shall issue its decision to the taxpayer and the
16 Franchise Tax Board of its determination and the reasons therefor.

17 SEC. 15. Section 19048 of the Revenue and Taxation Code is
18 amended to read:

19 19048. The decision of the California Tax Court becomes
20 final upon the expiration of 90 days from the time of the
21 determination.

22 SEC. 16. Section 19050 of the Revenue and Taxation Code is
23 amended to read:

24 19050. A certificate by the Franchise Tax Board of the
25 mailing of the notices specified in this article, or a copy of the
26 decision issued by the California Tax Court, as applicable, is prima
27 facie evidence of the assessment of the deficiency and of the giving
28 of the notices.

29 SEC. 17. Section 19301 of the Revenue and Taxation Code is
30 amended to read:

31 19301. (a) If the Franchise Tax Board or the California Tax
32 Court, as the case may be, finds that there has been an overpayment
33 of any liability imposed under Part 10 (commencing with Section
34 17001), Part 11 (commencing with Section 23001), or this part by
35 a taxpayer for any year for any reason, the amount of the
36 overpayment may be credited against any amount then due from
37 the taxpayer and the balance shall be refunded to the taxpayer.

38 (b) In the case of a joint return filed under Section 18521, the
39 amount of the overpayment may be credited against the amount

1 then due from both taxpayers and the balance shall be refunded to
2 both taxpayers in the names under which the return was paid.

3 (c) In the case of a corporation, the balance shall be refunded
4 to the taxpayer or its successor through reorganization, merger, or
5 consolidation, or to its shareholders upon dissolution.

6 SEC. 18. Section 19324 of the Revenue and Taxation Code is
7 amended to read:

8 19324. (a) Except as provided in subdivision (b), at the
9 expiration of 90 days from the mailing of the notice, the Franchise
10 Tax Board's action upon the claim is final unless within the 90-day
11 period the taxpayer appeals in writing from the action of the
12 Franchise Tax Board to the California Tax Court.

13 (b) If within the period set forth in Section 19384 for filing a
14 suit for refund the Franchise Tax Board receives information that
15 it determines clearly establishes that a disallowed claim should
16 have been allowed, in whole or in part, the Franchise Tax Board
17 shall credit the amount of the overpayment against any taxes due
18 from the taxpayer under this part and the balance shall be refunded
19 to the taxpayer.

20 SEC. 19. Section 19331 of the Revenue and Taxation Code is
21 amended to read:

22 19331. If the Franchise Tax Board fails to mail notice of
23 action on any refund claim within six months after the claim is
24 filed, the taxpayer may prior to mailing of notice of action on the
25 refund claim consider the claim disallowed and appeal to the
26 California Tax Court. For substitution of the 120-day period for the
27 six-month period contained in this section in a Title 11 case, see
28 Section 505(a)(2) of Title 11 of the United States Code.

29 SEC. 20. Section 19332 of the Revenue and Taxation Code is
30 amended to read:

31 19332. Two copies of the appeal and two copies of any
32 supporting documents shall be addressed and mailed to the
33 California Tax Court. Upon receipt of the appeal, the California
34 Tax Court shall provide one copy of the appeal and one copy of any
35 supporting documents to the Franchise Tax Board at Sacramento,
36 California.

37 SEC. 21. Section 19333 of the Revenue and Taxation Code is
38 amended to read:

1 19333. The California Tax Court shall hear and determine the
2 appeal and thereafter shall issue its decision to the taxpayer and the
3 Franchise Tax Board of its determination and the reasons therefor.

4 SEC. 22. Section 19334 of the Revenue and Taxation Code is
5 amended to read:

6 19334. The determination of the California Tax Court is final
7 upon the expiration of 90 days from the date of the determination
8 unless within the 90-day period, the taxpayer or Franchise Tax
9 Board files a petition for rehearing with the California Tax Court.
10 In that event the determination becomes final upon the expiration
11 of 90 days from the date the California Tax Court issues its opinion
12 on the petition.

13 SEC. 23. Section 19335 of the Revenue and Taxation Code is
14 amended to read:

15 19335. If, with or after the filing of a protest or an appeal with
16 the California Tax Court, a taxpayer pays the tax protested before
17 the Franchise Tax Board acts upon the protest, or the California
18 Tax Court upon the appeal, the Franchise Tax Board or California
19 Tax Court, as applicable, shall treat the protest or the appeal as a
20 claim for refund or an appeal from the denial of a claim for refund
21 filed under this article.

22 SEC. 24. Section 19343 of the Revenue and Taxation Code is
23 amended to read:

24 19343. At the expiration of 90 days from the mailing of the
25 notice specified in Section 19342, the Franchise Tax Board's
26 action upon the disallowance of the interest shall be final unless
27 within the 90-day period, the taxpayer appeals in writing from the
28 action of the Franchise Tax Board to the California Tax Court.

29 SEC. 25. Section 19344 of the Revenue and Taxation Code is
30 amended to read:

31 19344. Two copies of the appeal and two copies of any
32 supporting documents shall be addressed and mailed to the
33 California Tax Court. Upon receipt of the appeal, the California
34 Tax Court shall provide one copy of the appeal and one copy of any
35 supporting documents to the Franchise Tax Board at Sacramento,
36 California.

37 SEC. 26. Section 19345 of the Revenue and Taxation Code is
38 amended to read:

1 19345. The California Tax Court shall hear and determine the
2 appeal and thereafter shall issue its decision to the taxpayer and the
3 Franchise Tax Board of its determination and the reasons therefor.

4 SEC. 27. Section 19346 of the Revenue and Taxation Code is
5 amended to read:

6 19346. The determination is final upon the expiration of 90
7 days from the date of the determination unless within the 90-day
8 period, the taxpayer or Franchise Tax Board files a petition with
9 the California Tax Court. In that event the determination becomes
10 final upon the expiration of 90 days from the date the California
11 Tax Court issues its decision with respect to the petition.

12 SEC. 28. Section 19347 of the Revenue and Taxation Code is
13 amended to read:

14 19347. Within 90 days after the mailing of the notice of the
15 Franchise Tax Board's action disallowing interest upon any refund
16 claim, the taxpayer, in lieu of filing an appeal with the California
17 Tax Court as authorized pursuant to Section 19343, may bring an
18 action against the Franchise Tax Board on the grounds set forth for
19 interest in the claim for the recovery of the interest.

20 SEC. 29. Section 19350 of the Revenue and Taxation Code is
21 amended to read:

22 19350. If a credit or refund of any part of an overpayment
23 would be barred under Section 19306, except for Section 19312,
24 no interest shall be allowed or paid with respect to that part of the
25 overpayment for any period beginning after the expiration of the
26 period of limitation provided in Section 19306 for filing claim for
27 credit or refund of that part of the overpayment and ending at the
28 expiration of six months after the date on which the claim was filed
29 or, in case no claim was filed and the overpayment was found by
30 the California Tax Court, ending at the time the appeal was filed
31 with the California Tax Court.

32 SEC. 30. Section 19381 of the Revenue and Taxation Code is
33 amended to read:

34 19381. (a) Except as provided in subdivision (b), no
35 injunction or writ of mandate or other legal or equitable process
36 shall issue in any suit, action, or proceeding in any court against
37 this state or against any officer of this state to prevent or enjoin the
38 assessment or collection of any tax under this part.

39 (b) No tax based solely upon the alleged residence in this state
40 of an individual shall be collected from that individual until 90

1 days after the action of the California Tax Court becomes final and,
2 if he or she files an appeal with the Court of Appeal, during the
3 pendency of the action, other than by way of or under the jeopardy
4 assessment provisions of this part.

5 SEC. 31. Section 19382 of the Revenue and Taxation Code is
6 amended to read:

7 19382. (a) Except as provided in Section 19385, after
8 payment of the tax and denial by the Franchise Tax Board of a
9 claim for refund, any taxpayer claiming that the tax computed and
10 assessed is void in whole or in part may bring an action, upon the
11 grounds set forth in that claim for refund, against the Franchise Tax
12 Board for the recovery of the whole or any part of the amount paid.

13 (b) This section does not apply to a claim for refund that is
14 based upon an appeal of a determination or action by the Franchise
15 Tax Board that was appealed to, and adjudicated by, the California
16 Tax Court.

17 SEC. 32. Section 19384 of the Revenue and Taxation Code is
18 amended to read:

19 19384. The action provided by Section 19382 shall be filed
20 within four years from the last date prescribed for filing the return
21 or within one year from the date the tax was paid, or within 90 days
22 after notice of action by the Franchise Tax Board upon any claim
23 for refund.

24 SEC. 33. Part 12 (commencing with Section 25150) is added
25 to Division 2 of the Revenue and Taxation Code, to read:

26 27 PART 12. CALIFORNIA TAX COURT

28 29 CHAPTER 1. GENERAL PROVISIONS

30
31 25150. This act hereby creates the California Tax Court that
32 is separate from and independent of the Franchise Tax Board and
33 the State Board of Equalization.

34 25151. The California Tax Court is vested with the powers
35 and duties, as prescribed by this act, that are necessary to conduct
36 de novo administrative review of specified administrative
37 determinations made by the Franchise Tax Board and the State
38 Board of Equalization.

1 25152. (a) The California Tax Court shall be composed of
2 five judges appointed by the Governor, subject to the confirmation
3 of the Senate.

4 (b) The terms of the judges shall be 12 years, except that the
5 members initially appointed to the California Tax Court shall serve
6 terms of 4, 6, 8, 10, and 12 years, respectively, as appointed by the
7 Governor.

8 (c) Each judge shall be selected on the basis of his or her
9 qualifications, knowledge, and experience with regard to the
10 administration and application of the tax laws of this state and of
11 the United States.

12 (d) Once appointed and confirmed, each judge shall continue
13 in office until his or her term expires and until a successor has been
14 appointed and confirmed.

15 (e) Each judge shall be bound to the code of judicial ethics that
16 apply to judges serving in the California courts.

17 (f) Vacancies in the California Tax Court that occur, other than
18 by the expiration of a term, shall be filled for the unexpired term
19 by the Governor, subject to the confirmation of the Senate.

20 (g) The Governor may remove a judge after notice and an
21 opportunity to be heard, for neglect of duty, inability to perform
22 duties, malfeasance in office, or for other good cause.

23 25153. (a) A candidate for a judge of the California Tax
24 Court shall meet all of the following requirements:

25 (1) The candidate shall be a citizen of the United States.

26 (2) The candidate shall be a resident of the State of California.

27 (3) The candidate shall be licensed as an attorney, and for at
28 least five of the 10 years preceding his or her appointment, shall
29 have engaged in the active practice of law, governmental or
30 private, with a primary focus on taxation.

31 (4) The candidate shall meet any qualification that a judge of
32 a superior court is required to meet, except for a residency
33 qualification that is different from the residency requirement set
34 forth in paragraph (2).

35 (b) Before entering upon the duties of office, each judge shall
36 take and subscribe to an oath or affirmation that he or she will
37 faithfully discharge the duties of the office, and that oath shall be
38 filed in the office of the Secretary of State.

39 (c) Each judge shall devote his or her full time during business
40 hours to the duties of his or her office.

(d) No person, while serving as a judge with the California Tax Court, shall engage in the practice of law or other gainful employment or business, nor hold another office or position of profit under this state, any other state, or the United States.

25154. Once every two years the judges shall elect a Chief Judge, with the approval of a majority of the judges, who shall serve as the executive director of the California Tax Court and shall have sole charge of the administration of the California Tax Court.

25155. Each judge shall receive compensation on the same terms and at the same rate as judges serving in the superior courts of this state.

25156. (a) The principal office of the California Tax Court shall be located in Sacramento, California.

(b) The California Tax Court shall conduct hearings at its principal office. The California Tax Court may also hold hearings at any place within the state, as assigned by the Chief Judge, with a view to securing to taxpayers a reasonable opportunity to appear before the California Tax Court with as little inconvenience and expense as practicable.

(c) The state shall provide courtrooms, chambers, and offices for the California Tax Court in Sacramento and shall arrange for courtrooms, chambers, and offices or other appropriate facilities when hearings are held elsewhere.

25157. The California Tax Court is authorized to promulgate and adopt all reasonable rules and forms as may be necessary to carry out the intent and purpose of this act.

~~25158. The California Tax Court is authorized to establish a streamlined hearing process for tax deficiencies and claimed refunds that are not in excess of ten thousand dollars (\$10,000), exclusive of penalties and interest.~~

CHAPTER 2. HEARINGS

Article 1. General Rules of Application

25165. (a) Proceedings before the California Tax Court shall be a full evidentiary hearing and may not be restricted to the record of the proceedings before the Franchise Tax Board, State Board of Equalization, or the Insurance Commissioner, as applicable.

(b) (1) Except as provided in paragraph (2), all hearings shall be open to the public and shall be conducted in accordance with the rules of practice and procedure as the California Tax Court may promulgate by regulation.

(2) Notwithstanding the foregoing, on motion of either party, the California Tax Court shall exclude information from the public if the party opposing disclosure of that information shows good cause as to why that information should remain confidential.

25166. (a) ~~The California Tax Court is not bound by the rules of evidence as applied in civil cases in the courts of this state.~~

~~(b) The California Tax Court shall admit relevant evidence if it is probative of a material fact in controversy.~~

~~(c) (1) Subject to the provisions of paragraph (2), hearsay evidence shall be admissible if it is the kind of evidence on which reasonable persons customarily rely in the course of serious affairs.~~

~~(2) The rules of privilege that are recognized and applied by the laws of this state shall apply.~~

~~(d) provisions of the Evidence Code shall apply to all evidentiary hearings before the California Tax Court.~~

(b) Oral evidence may be taken only on oath or affirmation.

~~(e)~~

(c) In the case of an issue of fact, the taxpayer shall have the burden of persuasion by a preponderance of the evidence in the record, except that the Franchise Tax Board, State Board of Equalization, or the Insurance Commissioner, as applicable, shall have the burden of persuasion in the case of an assertion of fraud and in other cases provided by law.

25167. (a) The taxpayer may be represented by any of the following in a proceeding before the California Tax Court:

(1) The taxpayer or the taxpayer's spouse.

(2) An attorney admitted to practice before the California Tax Court.

(3) A participant in a law school tax clinic that is accredited by the California Tax Court.

(4) Any person that is licensed by the United States Department of the Treasury to represent taxpayers before all administrative levels of the Internal Revenue Service and that meets either of the following requirements:

1 (A) That person has satisfied the requirements for admission to
2 practice before the California Tax Court, as specified in the
3 California Tax Court Rules of Practice and Procedure.

4 (B) That person is admitted to practice before the United States
5 Tax Court as of the date that the taxpayer files a petition with the
6 California Tax Court.

7 (5) Any other person authorized under the rules of practice and
8 procedure as promulgated by the California Tax Court.

9 (b) The Franchise Tax Board, State Board of Equalization, or
10 Department of Insurance, as applicable, may be represented by any
11 of the following in a proceeding before the California Tax Court:

12 (1) The agency's chief counsel.

13 (2) A member of the agency's legal staff.

14 (3) The Department of Justice.

15 25170. (a) The California Tax Court shall issue its decision
16 after a hearing, within six months after the submission of briefs
17 subsequent to completion of the hearing or, if briefs are not
18 submitted, then within six months after completion of the hearing.
19 The California Tax Court may extend the six-month period, for
20 good cause shown, up to three additional months.

21 25171. (a) The California Tax Court shall issue its decision
22 in writing, including a concise statement of the facts found and the
23 conclusions of law reached. The California Tax Court's order
24 shall, subject to law, grant that relief, invoke those remedies, and
25 issue those orders as it deems appropriate to carry out its decision.

26 (b) If a decision is certified for publication in accordance with
27 subdivision (b) of Section 25172, the California Tax Court's
28 interpretation of a taxing statute subject to contest in one
29 proceeding shall be followed by the California Tax Court in all
30 future proceedings, and its application of a taxing statute to
31 particular facts shall be followed by the California Tax Court in all
32 future proceedings involving similar facts, unless the California
33 Tax Court's interpretation or application conflicts with that of an
34 appellate court.

35 (c) The California Tax Court's decision shall have the same
36 effect, and shall be enforced in the same manner, as a judgment of
37 a superior court of this state.

38 25172. (a) Except as provided in subdivision (b), the final
39 decision of the California Tax Court is not certified for publication.

1 (b) The Chief Judge, subject to approval of the majority of the
2 judges of the California Tax Court, may designate a final decision
3 as a certified decision for publication.

4 (c) The California Tax Court shall provide for the publication
5 of its certified final decisions in the form it deems best adapted for
6 public convenience. These publications shall be made
7 permanently available and constitute the certified decisions of the
8 California Tax Court.

9 (d) (1) All final decisions should be made available for public
10 review.

11 (2) All evidence and transcription of the hearings conducted by
12 the California Tax Court shall be available for public review with
13 the exception of the following:

14 (A) Any evidence or transcription that applies to trade secrets
15 or other confidential information.

16 (B) Any evidence or transcription that the California Tax
17 Court, upon motion of a party to the proceeding, has withdrawn
18 from public record.

19 25173. (a) Except as provided in subdivision (b), the
20 decision of a California Tax Court judge that conducted the
21 hearing is not subject to approval by the remaining members of the
22 California Tax Court.

23 (b) The Chief Judge of the California Tax Court, in his or her
24 sole discretion, or in the alternative, a majority of the California
25 Tax Court judges, may determine that the decision of one of the
26 California Tax Court judges should be decided by the entire
27 California Tax Court.

28 25180. (a) A taxpayer or the Franchise Tax Board, the State
29 Board of Equalization, or the Insurance Commissioner, as
30 applicable, may file an appeal with the California Tax Court for a
31 reconsideration of its decision within the 90-day period following
32 the California Tax Court's issuance of its decision.

33 (b) (1) Except as provided in paragraph (2), the California Tax
34 Court may set a time, date, and place for hearing the appeal and
35 shall notify the taxpayer, the Franchise Tax Board, the State Board
36 of Equalization, or the Insurance Commissioner, as applicable, not
37 less than 60 days in advance of the date of the hearing.

38 (2) The California Tax Court, in its discretion, may take any
39 other action as it may deem appropriate in lieu of hearing an
40 appeal, including, but not limited to, summary reversal,

1 depublication of a decision certified for publication, or a summary
2 affirmance of the decision.

3 (c) If a hearing on an appeal is scheduled, the California Tax
4 Court shall hear and issue a decision on the appeal and shall
5 thereafter notify the taxpayer and the Franchise Tax Board, the
6 State Board of Equalization, or the Insurance Commissioner, as
7 applicable, of its determination and the reasons therefor.

8 (d) If the California Tax Court does not grant an appeal of its
9 decision, it shall notify the taxpayer and the Franchise Tax Board,
10 the State Board of Equalization, or the Insurance Commissioner,
11 as applicable, of its determination and the reasons therefor.

12 25182. (a) The decision of the California Tax Court, or in the
13 case of an appeal of a decision of the California Tax Court, the
14 action on the appeal, becomes final 90 days following the issuance
15 to the taxpayer and the Franchise Tax Board, the State Board of
16 Equalization, or the Insurance Commissioner, as applicable, of the
17 decision unless either the taxpayer or the Franchise Tax Board, the
18 State Board of Equalization, or the Insurance Commissioner, as
19 applicable files a notice of appeal within the 90-day period with the
20 Court of Appeal for the appellate judicial district in which the
21 appeal has arisen. *applicable, files a petition within that 90-day*
22 *period for a writ of extraordinary relief with the Court of Appeal*
23 *for the appellate judicial district in which the proceeding*
24 *originally arose.*

25 (b) The standard of judicial review to be applied by any
26 reviewing court shall be the substantial evidence test, defined and
27 applied as follows:

28 ~~(1) If the determination by the California Tax Court is not fairly~~
29 ~~supported by the evidence in the record considered as a whole, the~~

30 (1) *If the findings of the California Tax Court, with respect to*
31 *questions of fact, are not supported by substantial evidence on the*
32 *record considered as a whole, the reviewing court may apply its*
33 *independent judgment in reviewing the findings of fact.*

34 (2) The court shall also use its independent judgment in
35 reviewing questions of law and mixed questions of law and fact.

36 (c) *The Judicial Council shall adopt rules to implement this*
37 *section, including rules concerning the form and content of*
38 *exhibits to the petition and the form and time for filing an answer*
39 *to the petition and any reply to the answer.*

1 25183. The final action of the California Tax Court shall be
2 considered res judicata with respect to any original action on a
3 claim for refund filed in a superior court in this state.

4
5 Article 2. *Optional Hearings*
6

7 21590. (a) *A taxpayer may, with the concurrence of the*
8 *California Tax Court, elect to have the taxpayer's petition for*
9 *redetermination heard in accordance with the provisions of this*
10 *article if the total amount of the disputed deficiency, or the amount*
11 *of the claimed overpayment, as applicable, is not in excess of the*
12 *following:*

13 (1) *In the case of a petition for redetermination of the taxes*
14 *imposed under either the Personal Income Tax Law (Part 10*
15 *(commencing with Section 17001)) or the Corporation Tax Law*
16 *(Part 11 (commencing with Section 23101)), fifty thousand dollars*
17 *(\$50,000) for any income year.*

18 (2) *In the case of a petition for redetermination of the taxes*
19 *imposed under the Sales and Use Tax Law (Part 1 (commencing*
20 *with Section 6001)), the Bradley-Burns Uniform Local Sales and*
21 *Use Tax Law (Part 1.5 (commencing with Section 7200)), or the*
22 *Transactions and Use Tax Law (Part 1.6 (commencing with*
23 *Section 7251)), twelve thousand five hundred dollars (\$12,500) for*
24 *any quarter.*

25 (3) *In the case of a petition for a redetermination of the taxes*
26 *imposed on insurance gross receipts (Part 7 (commencing with*
27 *Section 12001)), fifty thousand dollars (\$50,000) for any calendar*
28 *year.*

29 (b) *For purposes of this section, the total amount of the*
30 *disputed deficiency or the amount of any claimed overpayment*
31 *placed in dispute includes additions to the tax, additional*
32 *amounts, and penalties.*

33 21591. *Notwithstanding the provisions of subdivision (a) of*
34 *Section 25166, any hearing conducted pursuant to this article*
35 *shall be conducted in accordance with such rules of evidence,*
36 *practice, and procedure as the California Tax Court may*
37 *prescribe.*

38 25192. *The jurisdiction of the California Tax Court is limited*
39 *to the amounts set forth in subdivision (a) of Section 25190, and*

1 *the California Tax Court is precluded from entering a decision with*
2 *respect to a redetermination that is in excess of those amounts.*

3 25193. (a) *At any time before a decision of a hearing*
4 *conducted pursuant to this article becomes final, either party may*
5 *request any further proceedings on the petition for*
6 *redetermination, in accordance with this article, be discontinued.*

7 (b) *The California Tax Court may grant the request for*
8 *discontinuance if it makes both of the following findings:*

9 (1) *There are reasonable grounds for believing that the amount*
10 *of the deficiency placed in dispute, or the amount of an*
11 *overpayment, exceeds the applicable jurisdictional amount*
12 *described in subdivision (a) of Section 21590.*

13 (2) *The amount of the excess deficiency or overpayment that is*
14 *in dispute is large enough to justify granting the request, and to*
15 *discontinue further proceedings in accordance with this article.*

16 (c) *If the California Tax Court grants a request for*
17 *discontinuance pursuant to this article, the hearing on the request*
18 *for redetermination shall be conducted in accordance with the*
19 *provisions of Article 1 (commencing with Section 25165).*

20 21595. *For purposes of this article, all of the following apply:*

21 (a) *A decision, together with a brief summary of the reasons*
22 *therefor, in any proceeding conducted pursuant to this article shall*
23 *satisfy the requirements of Section 25170.*

24 (b) *A decision of the California Tax Court in any case that is*
25 *heard pursuant to this article may not be reviewed in any other*
26 *court.*

27 (c) *A decision of the California Tax Court in any case that is*
28 *heard pursuant to this article may not be cited as precedent.*